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**JANICE K. BREWER
SECRETARY OF STATE**

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CHAPTER 48

SENATE BILL 1098

AN ACT

AMENDING SECTIONS 20-450 AND 20-2310, ARIZONA REVISED STATUTES; RELATING TO
INSURANCE DISCRIMINATORY PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-450, Arizona Revised Statutes, is amended to
3 read:

4 20-450. Practices not prohibited as discrimination or rebates
5 in life and disability insurance; wellness programs

6 A. Nothing in ~~sections~~ SECTION 20-448 or 20-449 shall be construed as
7 including within the definition of discrimination or rebates any of the
8 following practices:

9 1. In the case of any contract of life insurance or life annuity,
10 paying bonuses to policyholders or otherwise abating their premiums in whole
11 or part out of surplus accumulated from nonparticipating insurance, but any
12 such bonuses or abatement of premiums shall be fair and equitable to
13 policyholders and for the best interests of the insurer and its
14 policyholders.

15 2. In the case of life insurance policies issued on the industrial
16 debit plan, making allowance to policyholders who have continuously for a
17 specified period made premium payments directly to an office of the insurer
18 in an amount which fairly represents the saving in collection expense.

19 3. Readjustment of the rate of premium for a group insurance policy
20 based on the loss or expense experience thereunder, at the end of the first
21 or any subsequent policy year of insurance thereunder, which may be made
22 retroactive only for such policy year.

23 4. Issuing life or disability policies on a salary savings or payroll
24 deduction plan at a reduced rate commensurate with the savings made by the
25 use of such plan.

26 B. SECTION 20-448 OR 20-452 DOES NOT PROHIBIT ANY PERSON FROM
27 PROVIDING OR OFFERING TO PROVIDE REWARDS OR INCENTIVES UNDER A WELLNESS
28 PROGRAM THAT SATISFIES THE REQUIREMENTS FOR AN EXCEPTION FROM THE GENERAL
29 PROHIBITION AGAINST DISCRIMINATION BASED ON A HEALTH FACTOR UNDER THE HEALTH
30 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (P.L. 104-191; 110 STAT.
31 1936), INCLUDING ANY FEDERAL REGULATIONS THAT ARE ADOPTED PURSUANT TO THAT
32 ACT.

33 Sec. 2. Section 20-2310, Arizona Revised Statutes, is amended to read:

34 20-2310. Discrimination prohibited; preexisting conditions;
35 wellness programs

36 A. Except as provided in subsection B of this section, a health
37 benefits plan may not deny, limit or condition the coverage or benefits based
38 on a person's health status-related factors or a lack of evidence of
39 insurability.

40 B. A health benefits plan shall not exclude coverage for preexisting
41 conditions, except that:

42 1. A health benefits plan may exclude coverage for preexisting
43 conditions for a period of not more than twelve months or, in the case of a
44 late enrollee, eighteen months. The exclusion of coverage does not apply to
45 services that are furnished to newborns who were otherwise covered from the

1 time of their birth or to persons who satisfy the portability requirements
2 under section 20-2308.

3 2. The accountable health plan shall reduce the period of any
4 applicable preexisting condition exclusion by the aggregate of the periods of
5 creditable coverage that apply to the individual.

6 C. A health benefits plan shall not include an affiliation period in a
7 policy unless the affiliation period satisfies the requirements prescribed in
8 45 Code of Federal Regulations section 146.119(b).

9 D. On request of a health benefits plan, a person who provides
10 coverage during a period of continuous coverage with respect to a covered
11 individual shall promptly disclose the coverage provided to the covered
12 individual, the period of the coverage and the benefits provided under the
13 coverage.

14 E. The accountable health plan shall calculate creditable coverage
15 according to the following rules:

16 1. The accountable health plan shall give an individual credit for
17 each day the individual was covered by creditable coverage.

18 2. The accountable health plan shall not count a period of creditable
19 coverage for an individual enrolled in a health benefits plan if after the
20 period of coverage and before the enrollment date there were sixty-three
21 consecutive days during which the individual was not covered under any
22 creditable coverage.

23 3. The accountable health plan shall give credit in the calculation of
24 creditable coverage for any period that an individual is in a waiting period
25 or an affiliation period for any health coverage.

26 4. The accountable health plan shall not count a period of creditable
27 coverage with respect to enrollment of an individual if, after the most
28 recent period of creditable coverage and before the enrollment date,
29 sixty-three consecutive days lapse during all of which the individual was not
30 covered under any creditable coverage. The accountable health plan shall not
31 include in the determination of the period of continuous coverage described
32 in this section any period that an individual is in a waiting period for
33 health insurance coverage offered by a health care insurer, is in a waiting
34 period for benefits under a health benefits plan offered by an accountable
35 health plan or is in an affiliation period.

36 5. In determining the extent to which an individual has satisfied any
37 portion of any applicable preexisting condition period the accountable health
38 plan shall count a period of creditable coverage without regard to the
39 specific benefits covered during that period.

40 6. An accountable health plan shall not impose any preexisting
41 condition exclusion in the case of an individual who is covered under
42 creditable coverage thirty-one days after the individual's date of birth.

43 7. An accountable health plan shall not impose any preexisting
44 condition exclusion in the case of a child who is adopted or placed for

1 adoption before age eighteen and who is covered under creditable coverage
2 thirty-one days after the adoption or placement for adoption.

3 F. An accountable health plan shall provide the certificate of
4 creditable coverage described in subsection G of this section without charge
5 for creditable coverage occurring after June 30, 1996 if the individual:

6 1. Ceases to be covered under a health benefits plan offered by an
7 accountable health plan or otherwise becomes covered under a COBRA
8 continuation provision. An individual who is covered by a health benefits
9 plan that is offered by an accountable health plan, that is terminated or not
10 renewed at the choice of the employer and where the replacement of the health
11 benefits plan is without a break in coverage is not entitled to receive the
12 certification prescribed in this paragraph but is instead entitled to receive
13 the certifications prescribed in paragraphs 2 and 3 of this subsection.

14 2. Who was covered under a COBRA continuation provision ceases to be
15 covered under the COBRA continuation provision.

16 3. Requests certification from the accountable health plan within
17 twenty-four months after the coverage under a health benefits plan offered by
18 an accountable health plan ceases.

19 G. The certificate of creditable coverage provided by an accountable
20 health plan is a written certification of:

21 1. The period of creditable coverage of the individual under the
22 accountable health plan and any applicable coverage under a COBRA
23 continuation provision.

24 2. Any applicable waiting period or affiliation period imposed on an
25 individual for any coverage under the accountable health plan.

26 H. Any accountable health plan that issues health benefits plans in
27 this state, as applicable, shall issue and accept a written certificate of
28 creditable coverage of the individual that contains at least the following
29 information:

30 1. The date that the certificate is issued.

31 2. The name of the individual or dependent for whom the certificate
32 applies and any other information that is necessary to allow the issuer
33 providing the coverage specified in the certificate to identify the
34 individual, including the individual's identification number under the policy
35 and the name of the policyholder if the certificate is for or includes a
36 dependent.

37 3. The name, address and telephone number of the issuer providing the
38 certificate.

39 4. The telephone number to call for further information regarding the
40 certificate.

41 5. One of the following:

42 (a) A statement that the individual has at least eighteen months of
43 creditable coverage. For THE purposes of this subdivision, "eighteen months"
44 means five hundred forty-six days.

1 (b) Both the date that the individual first sought coverage, as
2 evidenced by a substantially complete application, and the date that
3 creditable coverage began.

4 6. The date creditable coverage ended, unless the certificate
5 indicates that creditable coverage is continuing from the date of the
6 certificate.

7 7. The consumer assistance telephone number for the department.

8 8. The following statement in at least fourteen point type:

9 Important notice!

10 Keep this certificate with your important personal records to
11 protect your rights under the health insurance portability and
12 accountability act of 1996 ("HIPAA"). This certificate is proof
13 of your prior health insurance coverage. You may need to show
14 this certificate to have a guaranteed right to buy new health
15 insurance ("Guaranteed issue"). This certificate may also help
16 you avoid waiting periods or exclusions for preexisting
17 conditions. Under HIPAA, these rights are guaranteed only for a
18 very short time period. After your group coverage ends, you
19 must apply for new coverage within 63 days to be protected by
20 HIPAA. If you have questions, call the Arizona department of
21 insurance.

22 I. An accountable health plan may provide any certification pursuant
23 to subsection F, paragraph 1 of this section at the same time the accountable
24 health plan sends the notice required by the applicable COBRA continuation
25 provision.

26 J. An accountable health plan has satisfied the certification
27 requirement under this section if the accountable health plan offering the
28 health benefits plan provides the prescribed certificate in accordance with
29 this section within thirty days after the event that triggered the issuance
30 of the certification.

31 K. If an accountable health plan imposes a waiting period for coverage
32 of preexisting conditions, within a reasonable period of time after receiving
33 an individual's proof of creditable coverage and not later than the date by
34 which the individual must select an insurance plan, the accountable health
35 plan shall give the individual written disclosure of the accountable health
36 plan's determination regarding any preexisting condition exclusion period
37 that applies to that individual. The disclosure shall include all of the
38 following information:

39 1. The period of creditable coverage allowed toward the waiting period
40 for coverage of preexisting conditions.

41 2. The basis for the accountable health plan's determination and the
42 source and substance of any information on which the accountable health plan
43 has relied.

1 3. A statement of any right the individual may have to present
2 additional evidence of creditable coverage and to appeal the accountable
3 health plan's determination, including an explanation of any procedures for
4 submission and appeal.

5 L. Periods of creditable coverage for an individual are established by
6 presentation of the written certifications described in this section and
7 section 20-1379. In addition to written certification of the period of
8 creditable coverage as described in this section, individuals may establish
9 creditable coverage through the presentation of documents or other means. In
10 order to make a determination that is based on the relevant facts and
11 circumstances of the amount of creditable coverage that an individual has, an
12 accountable health plan shall take into account all information that the plan
13 obtains or that is presented to the plan on behalf of the individual.

14 M. The department may enforce and monitor the issuance and delivery of
15 the notices and certificates by accountable health plans and insurers as
16 required by this section, the health insurance portability and accountability
17 act of 1996 (P.L. 104-191; 110 Stat. 1936) and any federal regulations
18 adopted to implement the health insurance portability and accountability act
19 of 1996.

20 N. THIS SECTION DOES NOT PROHIBIT ANY HEALTH BENEFITS PLAN FROM
21 PROVIDING OR OFFERING TO PROVIDE REWARDS OR INCENTIVES UNDER A WELLNESS
22 PROGRAM THAT SATISFIES THE REQUIREMENTS FOR AN EXCEPTION FROM THE GENERAL
23 PROHIBITION AGAINST DISCRIMINATION BASED ON A HEALTH FACTOR UNDER THE HEALTH
24 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (P.L. 104-191; 110 STAT.
25 1936), INCLUDING ANY FEDERAL REGULATIONS THAT ARE ADOPTED PURSUANT TO THAT
26 ACT.

APPROVED BY THE GOVERNOR APRIL 16, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2007.